

TITLE 14. Fish and Game Commission

Notice of Proposed Changes in Regulations

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 7071 and 8587.1, Fish and Game Code of the Fish and Game Code, and to implement, interpret or make specific sections 97, 7056, 7071, 8585.5, 8587, and 8587.1 of said Code, proposes to add Section 52.10, Title 14, California Code of Regulations, regarding optimum yields/allocations for sheephead, cabezon, and greenling fisheries.

Informative Digest/Policy Statement Overview

In December of 2000, the Fish and Game Commission adopted annual optimum yields (OYs) for sheephead, cabezon and greenling fisheries as part of a package of interim nearshore fishery management measures. The Commission also approved recreational and commercial allocations for each species.

In the summer and fall of 2001, the Commission took three separate emergency actions to close the commercial nearshore fisheries for sheephead, cabezon and greenling because their allocations were exceeded and the fishery OYs were threatened with being exceeded. Emergency action was necessary because neither the OY nor the mechanism for closing the fishery, in the event an allocation was reached, was established in regulation.

The proposed regulations would direct the Department to take action to close either or both recreational or commercial sectors of these fisheries upon projected attainment of OY's and fishery allocations specified in regulation.

The proposed regulations would specify the OY values for nearshore fish stocks adopted by the Commission in December 2000. These include 223,483 pounds for California sheephead, 178,728 pounds for cabezon, and 39,823 pounds for greenlings. Allocation values would be established as follows: for sheephead, the recreational allocation is 135,524 pounds, and the commercial allocation is 87,959 pounds; for cabezon, the recreational allocation is 84,330 pounds, and the commercial allocation is 94,398 pounds; and for greenlings, the recreational allocation is 26,403 pounds and the commercial allocation is 13,420 pounds.

Maintaining the status quo situation would continue the task of undertaking up to six emergency closures on each component of each of these fisheries, which is cumbersome for the Commission, the Department and the Office of Administrative Law. Furthermore, even with emergency actions, fisheries would continue to operate beyond prescribed harvest levels until the closures are effective.

The proposed regulations also describe the procedure the Department will follow in

making projections of commercial and recreational catch of sheephead, cabezon and greenling using landing receipt information and the best available scientific data. Upon projected attainment of any allocation, the Department shall notify the Commission, commercial permittees and the public of an upcoming closure via Department news releases and/or notification letters at least 10 days in advance of the specified date.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at Hubbs-Sea World Institute, Shedd Auditorium, 2595 Ingraham Blvd., San Diego, CA, on Friday, March 8, 2002 at 10:00 a.m., or as soon thereafter as the matter may be heard.

NOTICE IS ALSO GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held at the City Council Chambers, 333 W. Ocean Boulevard, Long Beach, CA, on Friday, April 5, 2002, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before Friday, March 29, 2002, at the address given below, or by fax at (916) 653-5040, or by e-mail to jduffy@dfg.ca.gov, but must be received no later than April 5, 2002, at the hearing in Long Beach, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Kathy Maxwell at the preceding address or phone number. Don Schultze, Department of Fish and Game, phone (916) 227-5670, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. These regulations only serve to establish harvest policies in regulation that were already effective in 2001, as well as provide a mechanism for closing the fisheries once allocations are reached.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

- (c) Cost Impacts on a Representative Private Person or Business:

The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.

- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.

- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.

- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The agency must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: February 5, 2002

John M. Duffy
Assistant Executive Director